

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as circulated 10/23/17

Board/Committee:		CHARTER REVIEW COMMISSION		Meeting Date	September 25, 2017
Location	Mo’ikeha Building, Meeting Room 2 A/B			Start of Meeting: 4:10 p.m.	End of Meeting: 4:47 p.m.
Present	Members: Galen Nakamura, Ricky Watanabe, Jan TenBruggencate, Virginia Kapali, and Isaac Cockett Also: Deputy County Attorney Adam Roversi; Boards & Commissions Office Staff: Administrative Assistant Lani Agoot; Administrator Paula M. Morikami				
Excused	Carol Suzawa				
Absent					
SUBJECT		DISCUSSION			ACTION
		Prior to the start of the meeting County Clerk Jade Tanigawa gave the Oath of Office to new Commissioners Galen Nakamura, Ricky Watanabe, Jan TenBruggencate, Virginia Kapali, and Isaac Cockett.			
Call To Order					Mr. TenBruggencate called the meeting to order at 4:10 p.m. with 5 Commissioners present.
Mayor's Welcome		Mayor Bernard P. Carvalho Jr. welcomed the Commissioners and thanked them for their service to the island of Kaua’i. He reminded them that in the 2016 General Election, the voters voted to make the Charter Review Commission permanent.			
Election of Chair and Vice Chair for Calendar Year 2017		Mr. TenBruggencate clarified that the new officers will serve until the end of the year at which time elections will take place for 2018.			Mr. Watanabe moved to nominate Jan TenBruggencate as Chair. Ms. Kapali seconded the motion. Mr. TenBruggencate recused himself from the vote. Motion carried 4:0 Mr. TenBruggencate moved to nominate Ricky Watanabe as Vice Chair. Ms. Kapali seconded the motion. Mr. Watanabe recused himself from the vote.

SUBJECT	DISCUSSION	ACTION
		Motion carried 4:0.
Business	<p><u>CRC 2017-01 Orientation by the County Attorney's Office regarding the duties of the Charter Review Commission and the rules and laws under which it operates.</u></p> <p>Deputy County Attorney Adam Roversi stated that the authority of the County to create a Charter was embodied in the State Constitution. The continued life of the Charter Review Commission was embodied in the Charter and effectively superseded the state law that organized county governments ahead of time. Mr. TenBruggencate asked if there were things in the Charter that do supersede and don't supersede state law to which Mr. Roversi explained that they superseded in the narrow realm of prior state ordinances that spoke to the structure of local government, and that there still exists, in the Hawai'i Revised Statutes, defunct provisions that speak about how county governments should be organized. Once organized, the Charter of each respective county took the place of those laws. Mr. TenBruggencate asked if the state legislature could pass laws that directly impact the way the County is organized to which Mr. Roversi stated that the state can pass laws of general applicability to the entire state that could conceivably supersede some county Charter provisions. He said there has been some confusion in the past as to the nature of a Charter amendment as opposed to an ordinance. The Charter Review Commission is charged with enacting provisions that deal with the structure of government as opposed to statutory things, such as how to deal with barking dogs, which is the realm of the County Council.</p> <p>Mr. Roversi gave a brief overview of the Sunshine Law requirements as it related to the noticing of a meeting, agendas, how to conduct a meeting, and holding an executive session. Mr. TenBruggencate asked for further clarification regarding adding agenda items and amending the agenda to</p>	

SUBJECT	DISCUSSION	ACTION
	<p>which Mr. Roversi provided that issues could be raised at a meeting for placement on a future agenda, but you would be precluded from having a substantive discussion of a particular topic until the next meeting.</p> <p>Mr. Roversi stated that the Commission is required by law to allow public testimony orally, and in writing, on any agenda item. The Chair can limit the amount of time that members of the public are allowed to testify to three minutes, however, those limits can be waived at the discretion of the Chair.</p> <p>Mr. TenBruggencate provided that any ruling by the Chair can be appealed by members of the Commission by a unanimous vote.</p> <p>Mr. Roversi stated that under the Sunshine Law, deliberations of the Commission have to be made in an open meeting and precludes Commissioners from having meetings by themselves (including emails) to have substantive discussions. It does not, however, bar 2 members from discussing an issue provided they do not commit to a particular vote. Mr. TenBruggencate added that serial communications are not allowed.</p> <p>Mr. Roversi stated that subsection 4, from HRS §92-5, allows the Commission to go into an executive session to receive advice from their attorney as to the powers, duties, privileges, immunities and liabilities of the Commission.</p> <p>Mr. Roversi advised the Commission to review their rules and make any changes or amendments if necessary.</p> <p>Ms. Morikami clarified that the Chair sets the agenda and instructed Commissioners to email her or the Chair with any proposed agenda items for placement on the agenda at least 12 days prior to the date of the meeting.</p>	

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	<p>Mr. Roversi advised the Commission to review the list of the previous Charter amendments provided, saying that it will be very informative as they begin their work as a new Charter Review Commission.</p>	
	<p><u>CRC 2017-02 Review and Possible Approval of Meeting Schedules for 2017 and 2018</u></p> <p>Mr. TenBruggencate stated that the way to change the Charter was by the vote of the people. The way to put a Charter amendment on the ballot is through a motion passed by a majority of the members of the Charter Review Commission, by a 5-member majority of the County Council, or by a petition signed by 5% of the number of voters registered in the previous election. Ms. Kapali asked if all proposed amendments had to go before the Charter Review Commission before they were put on the ballot to which Mr. TenBruggencate said yes, unless they are submitted to the County Council. Mr. Watanabe clarified that an amendment to the County Council is done by resolution, approved in two separate readings, and does not need to be reviewed by the Charter Review Commission. Mr. TenBruggencate added that another way is through an initiative or referendum.</p> <p>Ms. Kapali inquired about the deadline to submit proposed Charter amendments to which Ms. Morikami clarified that it was recommended that the Commission pass all proposals by June. She explained that the County Attorney's Office would vet the language in the proposed amendments and then it would be forwarded to the State Elections Division in early August.</p> <p>Ms. Kapali inquired about approvals the Commission needed for proposed amendments to which Mr. TenBruggencate said that following the County</p>	<p>Ms. Kapali moved to approve meeting schedules for 2017 and 2018. Mr. Watanabe seconded the motion. Motion carried 5:0</p>

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	<p>Attorney's recommendations protects the Commission legally.</p> <p>Mr. TenBruggencate stated that to do anything of substance, the Commission needed a majority vote of the body. For non-substantive issues the vote could be a majority of those members present at the meeting.</p> <p>Ms. Kapali questioned whether it would be beneficial to have department heads brief the Commission on current issues as far as management of their respective departments. Ms. Morikami shared that she has informed all department heads that the Charter Review Commission had been formed and encouraged them to submit recommendations for proposed Charter amendments. Mr. TenBruggencate added the department heads would be asked to provide their reasons and justifications for any proposed amendments.</p>	
Announcements	<u>Next Meeting: Monday, October 23, 2017, 4:00 p.m., in the Mo'ikeha Building, Meeting Room 2A/2B</u>	
Adjournment		Mr. Watanabe moved to adjourn the meeting at 4:47 p.m. Mr. Nakamura seconded the motion. Motion carried 5:0.

Submitted by: _____
Lani Agoot, Administrative Specialist

Reviewed and Approved by: _____
Jan TenBruggencate, Chair

() Approved as circulated.

() Approved with amendments. See minutes of _____ meeting.